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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/519,246	03/06/2000	Stuart K. Williams	9896.143	8260

7590 03/24/2003

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EXAMINER

BARRETT, THOMAS C

ART UNIT

PAPER NUMBER

3738

DATE MAILED: 03/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/519,246

Applicant(s)

WILLIAMS ET AL.

Examiner

Thomas C. Barrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-7,9-11,13,15-17 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-7,9-11,13,15-17 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION
REQUEST FOR CONTINUED EXAMINATION

The request filed on March 5, 2003 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 09/519,246 is acceptable and a RCE has been established. An action on the RCE follows.

Response to Arguments

Applicant's arguments with respect to claims 1, 3, 5-7, 9-11, 13, 15-17 and 19-21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

Claim 20 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The MPEP 608.01(n) states "The test as to whether a claim is a proper dependent claim is that it shall include every limitation of the claim from which it depends, or in other words that it shall not conceivably be infringed by anything which would not also infringe the basic claim."

Claim 20 claims only the graft of claim 11. Because the endovascular graft of claim 20 can be prepared by another method than that cited in claim 11, it could conceivably be infringed upon by another invention that would not also infringe upon the basic claim and is therefore improperly dependent.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 6-7, 9, 11, 13, 16-17 and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Drumheller (5,874,165). Drumheller discloses an endovascular graft comprising collagen, von Willebrand factor or thrombin (col. 8, lines 37-60) on ePTFE (col. 1, lines 41-59).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5, 10, 11, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guire (4,979,959) in view of Marin et al. (5,443,477). Guire discloses a vascular graft (col. 1, lines 31-32) with a thrombogenic agent such as collagen covalently bonded to its surface by the activation of photoreactive groups (col. 2, lines 38-46) however Guire fails to disclose the vascular graft as part of an endovascular stent-graft. Marin et al. teaches an intraluminal stent that can be reliably and readily

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affixed to any graft material (col. 2, lines 9-19) thus making an endovascular graft, which permits fixation of the graft to an arterial wall without sewing (col. 1, lines 66-67). It would have been obvious to one of ordinary skill in the art to combine the teaching of an intraluminal stent affixed to a graft material, as taught by Marin et al., to a vascular graft as per Guire, in order to permit fixation of the graft to an arterial wall without sewing.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas C. Barrett whose telephone number is (703) 308-8295. The examiner can normally be reached Tuesday-Friday between 9:00 A.M. and 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (703) 308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3580 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0850.



Thomas Barrett
March 17, 2003



David H. Willse
Primary Examiner